

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES CONTANT, *et al.*,

Plaintiffs,

v.

BANK OF AMERICA
CORPORATION, *et al.*,

Defendants.

No. 17-cv-3139-LGS

(related to No. 13-cv-7789-LGS)

**DECLARATION OF MICHAEL DELL'ANGELO ON BEHALF OF BERGER
MONTAGUE IN SUPPORT OF PLAINTIFFS' MOTION FOR AWARD OF
ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION EXPENSES, AND
SERVICE AWARDS FOR CLASS REPRESENTATIVES**

I, Michael Dell'Angelo, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct to the best of my knowledge, information and belief:

1. I am a Managing Shareholder in the law firm of Berger Montague PC. My firm serves as attorneys of record for Plaintiffs in this matter and was previously designated as Lead Class Counsel with respect to the Settlements. *See* ECF Nos. 297, 441 (the “Preliminary Approval Orders”).

2. I submit this declaration in support of Plaintiffs’ Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives regarding the services rendered, and costs and expenses incurred (“Fee Motion”), in *Contant, et al. v. Bank of America Corp., et al.*, Case No. 17-cv-3139-LGS (the “Action”).

3. Berger Montague has been litigating complex class action cases for nearly 50 years and has used its experience to litigate this case efficiently and effectively. The firm helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm’s complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger Montague has established new law and forged the path for recovery. The firm has served as lead, co-lead or co-trial counsel on many of the most significant civil antitrust cases over the last 50 years, including, *inter alia*, *In re Corrugated Container Antitrust Litigation* (recovery in excess of \$366 million), the *Infant Formula* case (recovery of \$125 million), the *Brand Name Prescription Drug* price-fixing case (settlement of more than \$700 million), the *State of Connecticut Tobacco Litigation* (settlement of \$3.6 billion), the *Graphite Electrodes*

Antitrust Litigation (settlement of more than \$134 million), and the *High-Fructose Corn Syrup Litigation* (\$531 million); *In re Currency Conversion Fee Antitrust Litigation* (total of \$386 million in settlements); *In re Domestic Drywall Antitrust, Litig.* (settlements totaling more than \$190 million); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.* (approximately \$5.6 billion settlement, after reduction for opt-outs).

4. A copy of the firm resume of Berger Montague PC is attached as Exhibit M to the Declaration of Michael Dell'Angelo in Support of Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives.

5. The schedule below in this paragraph sets forth my firm's total hours and lodestar, computed at current rates, for the period from inception of the case investigation through and including September 11, 2020. Prior to submitting our time in support of Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives, to confirm that time was accurate, Berger Montague reviewed each time entry to ensure that the amount of time spent on the work was reasonable; that the rates billed for the work were reasonable given both the nature of the work being done and the seniority level of the attorney or paralegal doing the work; that the amount of detail provided in support of the time entry was sufficient; and that the work being done was in furtherance of the Class's interests. The hourly rates for the attorneys and professional staff in my firm reflected in the chart below are the usual and customary rates currently charged by my firm in similar complex litigation matters. The total numbers of hours spent by my firm during this period was 7,425.70 with a corresponding lodestar (at current rates) of \$4,019,903.00. This schedule was prepared from contemporaneous daily time records prepared and maintained by my firm in the ordinary course of business:

Name	Position	Hours	Rate	Lodestar
Michael Dell'Angelo	Shareholder	1,367.40	\$820.00	\$1,121,268.00
Michael Kane	Shareholder	957	\$710.00	\$679,470.00
Benjamin Galdston	Shareholder	75	\$775.00	\$58,125.00
Merrill Davidoff	Shareholder	25.5	\$995.00	\$25,372.50
Amanda Trask	Senior Counsel	31.9	\$685.00	\$21,851.50
Joshua Ripley	Associate	4,421.40	\$440.00	\$1,945,416.00
Cori Maldonado	Paralegal	328.60	\$305.00	\$100,223.00
Caroline Choe	Paralegal	134.4	\$305.00	\$40,992.00
George MacMillan	Paralegal	26.5	\$310.00	\$8,215.00
Alexandra Arteaga	Paralegal	16	\$320.00	\$5,120.00
Mark Stein	Paralegal	26	\$345.00	\$8,970.00
Ruben Green	Paralegal	16	\$305.00	\$4,880.00
Total		7,425.70		\$4,019,903.00

6. A full print-out of Berger Montague's time records relating to this matter is available upon the Court's request.

7. I actively participated and oversaw all aspects of my firm's involvement in this Action. I led the Berger Montague team, which included among others, Michael J. Kane (shareholder) and Joshua T. Ripley (associate), each of whom had significant roles in litigating this Action and have substantial antitrust experience. In connection with representing the Plaintiffs in the Action, my firm did the following: engaged in case planning and overall strategy from the inception of the case until settlement; communicated with Settlement Class Representatives regarding litigation strategy, discovery, and case updates; drafted the initial complaint and the subsequent amended and consolidated complaints; formulated written discovery; reviewed documents; coordinated with industry experts and expert economists; drafted briefs, including drafting the memoranda in opposition to Defendants' motions to dismiss, in support of Plaintiffs' motions to amend, and discovery dispute briefs; prepared for and attended relevant court hearings, and presented arguments at pre-motion and status conferences; taken part in fact witness depositions and defended plaintiff depositions; formulated

expert strategies and worked with the experts on expert reports, allegations for proposed amended complaints, and the settlement plan of allocation; engaged in settlement negotiations with five separate Defendant groups, culminating with the execution of the Group Defendants Settlement; and worked with Claims Administrator Heffler Claims Group to prepare and oversee notice forms and the notice plan. The lodestar amount reflected in Paragraph 5 is for work performed by attorneys and professional staff at or affiliated with my firm for the benefit of the Class.

8. Berger Montague has advanced the costs of litigation in this matter, both with respect to its own costs as well as payment of assessments to a common fund to which all Plaintiffs' counsel in the Class case were asked to contribute. Berger Montague records its expenses by case in its computer system contemporaneously as such expenses are paid or reported. My firm has expended a total of \$730,928.43 in unreimbursed costs and expenses in connection with the prosecution of the Action from inception of the case through and including September 11, 2020. These costs are set forth in this paragraph and are reflected on the books and records of my firm. They were incurred on behalf of Plaintiffs by my firm and have not been reimbursed:

Category	Amount
Litigation Fund	\$619,642.93
Commercial Copies	\$1,775.00
Computer Research	\$23,244.41
Court Fees and Transcripts	\$2,388.34
Telephone/Fax	\$1,099.60
Postage/Express Delivery/Messenger	\$8,058.94
Travel: Air Transportation, Ground Travel, Meals, Lodging, etc.	\$16,351.93
Database Services	\$22,108.98
Expert and Consulting	\$13,083.00
Miscellaneous	\$23,175.30
Total	\$730,928.43

9. My firm has expended and will continue to expend many additional hours—which are not included in the lodestar cross-check calculations set forth above—in connection with the Settlement administration process, responding to Class member inquiries, working to secure final approval of the Settlement, preparing for the final approval hearing scheduled for November 19, 2020, and dealing with logistical matters involving Settlement administration.

10. Berger Montague has represented the Settlement Classes on a contingent fee basis. Berger Montague to date has not received any fees.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 21, 2020, in Philadelphia, PA.

/s/ Michael Dell'Angelo
Michael Dell'Angelo
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